IN THE SUPREME COURT OF THE UNITED STATES.

JAMES L. HYATT, AS CHIEF OF POLICE OF THE CITY OF ALBANY,
Plaintiff-in-Error,

against

THE PEOPLE OF THE STATE OF NEW YORK ON THE RELATION OF CHARLES E. CORKRAN, Defendant-in-Error.

Take notice that upon the affidavit of J. Murray Downs and James L. Hyatt, hereto annexed, and all the pleadings and proceedings herein, an application will be made at a term of the Supreme Court of the United States, appointed to be held at the Capitol in the city of Washington, D. C., on the 17th day of November, 1902, at ten o'clock in the forenoon, or as soon thereafter as counsel can be heard, for an order to advance the above-entitled cause upon the docket that the same may be more speedily argued and decided.

Yours, etc.,

EDWIN COUNTRYMAN,
Attorney for Plaintiff-in-Error; Office and post-office address, No. 13 North Pearl street, Albany, N. Y.

Dated October 27, 1902.

To Messrs. Moot, Sprague, Brownell & Marcy, Attorneys for Defendant-in-Error.

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against

THE PEOPLE OF THE STATE OF NEW YORK ON THE RELATION OF CHARLES E. CORKRAN, Defendant-in-Error.

UNITED STATES OF AMERICA,
STATE OF NEW YORK,
City and County of Albany, } *ss.*:

J. Murray Downs, being duly sworn, deposes and says that he is an attorney-at-law, residing in the city of Albany, N. Y., and a member of the law firm of Scherer & Downs, the attorneys for James L. Hyatt, the plaintiff-in-error, in the courts of the state of New York.

That the above-entitled appeal is brought on by a writ of error to the court of appeals of the state of New York, for the purpose of reviewing a decision of that court, which reversed the order of the supreme court dismissing the writ of *habeas corpus* and remanding the relator to the custody of the said James L. Hyatt, chief of police of the city of Albany, and which decision of the court of appeals directed that the said writ of *habeas corpus* was well brought and that the said Charles E. Corkran, defendant-in-error, should be discharged from custody.

Charles E. Corkran was indicted in the state of Tennessee for the crime of grand larceny and three indictments were found against him in the state of Tennessee on the 26th day of February, 1902. The Governor of the state of Tennessee made requisition on the Governor of the state of New York for the return to the state of Tennessee of the said Charles E. Corkran, to the end that he might be tried for the crimes charged in the said indictments. After a hearing before the Governor of the state of New York, at which hearing said Charles E. Corkran was duly represented by counsel, and the agent for the state of Tennessee by Messrs. Scherer & Downs, the Governor of the state of New York issued under his hand and the privy seal of the state, a

warrant to James L. Hyatt, as chief of police of the city of Albany, directing the said James L. Hyatt to arrest the said Charles E. Corkran, and after compliance with the requirements of section 827 of the code of criminal procedure of the state of New York to deliver the said Charles E. Corkran to the custody of Vernon Sharpe, agent for the state of Tennessee, to be taken back to the state of Tennessee from which he fled. The said Charles E. Corkran was taken into the custody of the said James L. Hyatt, as chief of police of the city of Albany, whereupon the said Charles E. Corkran immediately sued out a writ of *habeas corpus* requiring the said James L. Hyatt, as chief of police of the city of Albany, to have the body of the said Charles E. Corkran, together with the cause of his detention and imprisonment before the Hon. D. Cady Herrick, a justice of the supreme court of the state of New York.

Pursuant to the command of the said writ the said James L. Hyatt produced the said Charles E. Corkran before the supreme court and made a return to the said writ, alleging that he held the said Charles E. Corkran pursuant to the command of the warrant issued by the Governor of the state of New York for the return of the said Charles E. Corkran to the state of Tennessee. That return was traversed and a hearing had which resulted in an order being duly made at a special term of the supreme court of the state of New York, held at the city hall in the city of Albany, N. Y., on the 19th day of March, 1902, dismissing the said writ of *habeas corpus* and directing that the said Charles E. Corkran be remanded to the custody of the said James L. Hyatt, as chief of police of the city of Albany, and an order was also made at the same time and on the same day, staying all proceedings on the said order until the hearing and determination of an appeal, which was thereupon taken by the said Charles E. Corkran to the appellate division of the supreme court of the state of New York. The said appeal was taken by the said Charles E. Corkran to the appellate division of the supreme court, and the said Charles E. Corkran was admitted to bail, pending said appeal.

The said appeal came on for hearing at the appellate division of the supreme court of the state of New York, and an order was duly made on or about the 23d day of May, 1902, affirming the order of the special term in all things. Thereupon, the said Charles E. Corkran duly appealed to the court of appeals of the state of New York, and was admitted to bail, pending said appeal. The said appeal came on for hearing in the court of appeals at

the June, 1902, term of the court. After hearing the said appeal, the court of appeals on or about the 7th day of October, 1902, duly made an order reversing the decision of the appellate division of the supreme court and of the special term of the supreme court, and directing that the said Charles E. Corkran be discharged from custody.

Whereupon, the said James L. Hyatt, as chief of police of the city of Albany, sued out a writ of error from the supreme court of the United States to the court of appeals of the state of New York, praying for a review of the decision of the court of appeals. Assignments of error were duly filed, and the Court of Appeals, pursuant to the directions of the said writ of error, through its clerk, has caused the said case to be returned to this court and the said record on file in the court of appeals of the state of New York has been returned to and is filed in the office of the clerk of this court, together with the writ of error, citation, bond, assignments of error and appearance for the plaintiff-in-error by Edwin Countryman, whose office and post-office address is No. 13 North Pearl street, Albany, N. Y.

That this case presents for construction in this court, the provision of the constitution of the United States, article 4, section 2, subdivision 2, which provides: "A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime." And also the provision of section 5278, of the Revised Statutes of the United States, which provides as follows:

"Section 1. That whenever the executive authority of any state or territory demands any person as a fugitive from justice, of the executive authority of any state or territory to which such person has fled, and produce a copy of an indictment found, of an affidavit made before a magistrate of any state or territory, charging the person demanded with having committed treason, felony, or other crime, certified as authentic by the Governor or chief magistrate of the state or territory from whence the person so charged has fled, it shall be the duty of the executive authority of the state or territory to which such person has fled to cause him to be arrested and secured, and to cause notice of the arrest to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear. If no such agent appears within six months from

the time of the arrest, the prisoner may be discharged. All costs or expenses incurred in the apprehending, securing and transmitting such fugitive to the state or territory making such demand, shall be paid by such state or territory."

That it is very important and material that this case should be advanced on the calendar and that a speedy hearing or determination of the matters be had for the reason that the proceeding is one for interstate rendition, and if it should be decided that the said Charles E. Corkran is to be returned to the state of Tennessee, it is important for the interest of justice that he should be surrendered immediately. That under the contention of the plaintiff-in-error, the said Charles E. Corkran is a fugitive from justice and should be returned to the state of Tennessee for trial and that a speedy determination of this matter should be had.

Wherefore, the said plaintiff-in-error prays that an order be made advancing the above-entitled cause on the docket and fixing an early date for the argument of this case in this court and the said plaintiff-in-error ever will pray.

J. MURRAY DOWNS.

Sworn to before me this 27th
day of October, 1902.

ELLIS J. STALEY,
Notary Public, Albany Co., N. Y.

IN THE SUPREME COURT OF THE UNITED STATES.

JAMES L. HYATT, AS CHIEF OF POLICE OF THE CITY OF ALBANY,
Plaintiff-in-Error,

against

THE PEOPLE OF THE STATE OF NEW YORK ON THE RELATION OF CHARLES E. CORKRAN, Defendant-in-Error.

UNITED STATES OF AMERICA,
STATE OF NEW YORK,
City and County of Albany, } *ss.:*

James L. Hyatt, being duly sworn, deposes and says that he is the plaintiff-in-error in the above-entitled appeal; that he is chief

of police of the city of Albany, N. Y., and that the said Charles E. Corkran was taken into custody by your deponent pursuant to the direction of a warrant issued by the Governor of the state of New York, and which said warrant directed your deponent after complying with the requirements of section 827 of the code of criminal procedure of the state of New York, to deliver the said Charles E. Corkran to the custody of Vernon Sharpe, agent of the state of Tennessee, to be taken back to the state of Tennessee from which state the said Charles E. Corkran fled.

That your deponent has read the affidavit of J. Murray Downs and the same is true in all particulars. That the said Charles E. Corkran remained in the custody of your deponent until admitted to bail, and your deponent has not been able up to the present time to comply with the provisions of the warrant directed to him by the governor of the state of New York.

Your deponent believes that a speedy determination of this matter should be had for the reason that it involves an important question with relation to the administration of the criminal laws of the different states of the United States. That the said Charles E. Corkran is admitted to bail and his return to the state of Tennessee is sought because of the criminal charge made against him, and the interests of justice demand that he should be returned to the state of Tennessee as speedily as possible that he may be tried for the crime charged against him.

Wherefore, your deponent prays that an order be made by this court setting this case down for argument on as early a day as possible to the end that the same may be speedily argued and decided.

JAMES L. HYATT.

Sworn to before me this 29th
day of October, 1902.

ELLIS J. STALEY,
Notary Public, Albany Co., N. Y.